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VIA ELECTRONIC FILING

The Honorable Jocelyn Boyd
Chief Clerk and Administrator
Public Service Commission of South Carolina
101 Executive Center Dr., Suite 100
Columbia, SC 29210

Re: Complaint and Petition for Relief of BellSouth Telecommunications, Incorporated d/b/a AT&T Southeast d/b/a AT&T South Carolina v. Affordable Phone Services, Incorporated d/b/a High Tech Communications

Docket No. 2010-14-C

Complaint and Petition for Relief of BellSouth Telecommunications, Incorporated d/b/a AT&T Southeast d/b/a AT&T South Carolina v. Dialtone & More, Incorporated

Docket No. 2010-15-C

Complaint and Petition for Relief of BellSouth Telecommunications, Incorporated d/b/a AT&T Southeast d/b/a AT&T South Carolina v. Tennessee Telephone Service, LLC d/b/a Freedom Communications USA, LLC

Docket No. 2010-16-C

Complaint and Petition for Relief of BellSouth Telecommunications, Incorporated d/b/a AT&T Southeast d/b/a AT&T South Carolina v. OneTone Telecom, Incorporated

Docket No. 2010-17-C

Complaint and Petition for Relief of BellSouth Telecommunications, Incorporated d/b/a AT&T Southeast d/b/a AT&T South Carolina v. dPi Teleconnect, LLC

Docket No. 2010-18-C

Complaint and Petition for Relief of BellSouth Telecommunications, Incorporated d/b/a AT&T Southeast d/b/a AT&T South Carolina v. Image Access, Incorporated d/b/a NewPhone

Docket No. 2010-19-C

Dear Ms. Boyd:

Although the South Carolina Office of Regulatory Staff (“ORS”) did not present testimony or file proposed orders and briefs in the above referenced dockets, attorneys for both complainant and defendants have asked ORS to review the issues raised in this matter.

In considering the briefs submitted by the parties, ORS submits the following recommendations for the Commission’s consideration in deciding the issues before the Commission in this proceeding. The three issues before the Commission are as follows:

- I. The methodology for computing cash back credits to Resellers of AT&T South Carolina’s (“AT&T”) retail promotions
- II. Whether word-of-mouth promotions are available for resale and if so the methodology for computing credits to Resellers
- III. The calculation of credits to Resellers for waiver of the line connection charge

I. Cash-Back Promotions

The Federal Communications Commission’s *Local Competition Order*¹ provides that promotions lasting longer than ninety (90) days are subject to resale. An Incumbent Local Exchange Carrier (“ILEC”) must offer for resale at wholesale rates any telecommunications service that the carrier provides at retail to subscribers who are not telecommunications carriers.² Furthermore, an ILEC cannot impose unreasonable or discriminatory conditions or limitations on, the resale of such telecommunications service. Consistent with the Telecommunications Act, the South Carolina Public Service Commission established a wholesale discount of 14.8% to be applied to BellSouth Telecommunications, Inc.’s retail telecommunications services in Order No. 97-189.

For cash-back promotions where the cash-back amount is less than the standard retail price of the service, ORS recommends that the Commission adopt AT&T’s position that the wholesale discount of 14.8% be applied to the promotional price and not to the standard retail price of the services that are subject to the promotional offerings. For example, assuming a monthly retail amount of \$30.00 with a cash-back promotion of \$25.00 using AT&T’s methodology maintains an avoided cost percentage of 14.8%.

AT&T’s Method

Total Paid	\$	25.56	\$	51.12	\$	76.68	\$	102.24	\$	127.80	\$	153.36
Total Cashback	\$	(21.30)	\$	(21.30)	\$	(21.30)	\$	(21.30)	\$	(21.30)	\$	(21.30)
Net Amount Paid	\$	4.26	\$	29.82	\$	55.38	\$	80.94	\$	106.50	\$	132.06
% Difference from Net Retail		14.8%		14.8%		14.8%		14.8%		14.8%		14.8%

¹ *Implementation of the Local Competition Provisions in the Telecommunications Act of 1996*, CC Docket No. 96-98, First Report and Order, 11 FCC Rcd 15499, (1996)(*Local Competition Order*), subsequent history omitted.

² 47 USC § 251(c) (4)(A)

However, for cash-back promotions where the cash-back amount is higher than the standard retail price of the services, ORS recommends a different approach. While we believe that it is not appropriate to consider only the month in which the cash-back is received, ORS believes that these types of promotion should be evaluated over a reasonable period of time. ORS can foresee circumstances in which AT&T's methodology could impede a Reseller's ability to compete. For example, if AT&T offered \$200 cash-back on a service with a monthly price of \$20.00, under AT&T's method it would be many months before the aggregate amount a retail customer pays for the service exceeds the aggregate amount a Reseller pays for the service:

AT&T's Method

Total Paid	\$ 17.04	\$ 34.08	\$ 51.12	\$ 68.16	\$ 85.20	\$ 102.24
Total Cashback	\$ (170.40)	\$ (170.40)	\$ (170.40)	\$ (170.40)	\$ (170.40)	\$ (170.40)
Net Amount Paid	\$ (153.36)	\$ (136.32)	\$ (119.28)	\$ (102.24)	\$ (85.20)	\$ (68.16)
% Difference from Net Retail	14.8%	14.8%	14.8%	14.8%	14.8%	14.8%

To balance these concerns, ORS recommends that the Commission find that AT&T's method is appropriate when the net amount paid by a Reseller in the aggregate is greater than the net amount paid by a retail customer in the aggregate over a period of three months or less, but where the net amount paid by a Reseller in the aggregate is greater than the net amount paid by a retail customer in the aggregate over a period of four or more months, Resellers can challenge AT&T's methodology before this Commission in light of the specific facts of the situation. ORS respectfully submits that this is consistent with the reasoning that led the Federal Communications Commission to exempt promotions lasting ninety (90) days or less from the resale obligations of the Telecommunications Act of 1996.

II. Word-of-Mouth Promotions

AT&T states that qualifying AT&T South Carolina retail customers can receive promotional benefits such as gift cards under these offerings if they convince friends and family members who are not AT&T retail customers to purchase particular AT&T services (i.e. word-of-mouth promotion). The Resellers in their brief state that the Word-of-Mouth promotion allows an AT&T customer to receive a \$50 rebate for referring a new customer to AT&T. ORS submits that resale obligations apply only to "telecommunications services" the ILEC provides at retail, and a marketing referral program like "word-of-mouth" should not be subject to resale. Therefore, ORS recommends that the Commission adopt AT&T's position on this issue.

III. Waiver of Line Connection Charge Promotions

AT&T also offers a line connection charge waiver ("LCCW") promotion to its end-users. The retail customer would normally incur a charge for the line connection, and as a result of the waiver is charged nothing. The Resellers are first charged the Line Connection Charge at the applicable wholesale discount and then are credited back the amount assuming they qualify for the promotion.

The Resellers seek a credit of the entire amount (prior to application of the wholesale discount). ORS's position is that the waiver should be in the amount of a credit to zero out the amount previously charged to the Reseller. In this manner, the Reseller is not paid for the Line Connection Charge. Thus, ORS recommends that the Commission adopt AT&T's position on this issue.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Nanette S. Edwards". The signature is fluid and cursive, with the first name "Nanette" being more prominent.

Nanette S. Edwards

cc: Patrick W. Turner, Esquire
Henry Walker, Esquire
John J. Pringle, Jr., Esquire
Anton Christopher Malish, Esquire
Paul Francis Guarisco, Esquire